

Message Text

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PAGE 01 SANTIA 08619 022234Z

62

ACTION DLOS-06

INFO OCT-01 ARA-06 ISO-00 IO-13 FEA-01 SSO-00 NSCE-00

USIE-00 INRE-00 ACDA-07 AGR-05 AID-05 CEA-01 CEQ-01

CG-00 CIAE-00 CIEP-01 COME-00 DODE-00 DOTE-00 EB-07

EPA-01 ERDA-05 FMC-01 TRSE-00 H-02 INR-07 INT-05

JUSE-00 L-03 NSAE-00 NSC-05 NSF-01 OES-06 OMB-01

PA-01 PM-04 PRS-01 SP-02 SS-15 SAL-01 /115 W

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O R 022143Z SEP 76

FM AMEMBASSY SANTIAGO

TO SECSTATE WASHDC IMMEDIATE 1207

INFO AMEMBASSY BRASILIA

AMEMBASSY LA PAZ

AMEMBASSY LIMA

AMEMBASSY MEXICO

USMISSION USUN IMMEDIATE

C O N F I D E N T I A L SANTIAGO 8619

E. O. 11652: N/A

TAGS: PLOS, CI

SUBJECT: LOS: MESSAGE FROM FONMIN CARVAJAL TO SECRETARY KISSINGER

REF: STATE 213536

1. FONMINISTRY DIRECTOR OF SPECIAL AFFAIRS JORGE BERGUNO SEPTEMBER 1
HANDED TO EMBOFF A LETTER TO THE AMBASSADOR FROM FONMINISTER
CARVAJAL TRANSMITTING THE RESPONSE TO THE SECRETARY'S LETTER ON
THE LOS CONFERENCE (REFTEL). IN HIS LETTER CARVAJAL SAYS HE
AGREES WHOLEHEARTEDLY WITH THE SECRETARY ON THE IMPORTANCE OF THE
LOS NEGOTIATIONS, AND IS AS READY AS THE US TO CONFRONT THE
CHALLENGE. HE HAS INSTRUCTED THE CHILEAN DELEGATION TO PROCEED IN
A SPIRIT OF COMPROMISE AND FLEXIBILITY.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 SANTIA 08619 022234Z

2. CARVAJAL TREATS IN SOME DETAIL ONLY THE QUESTION OF THE HIGH

SEAS STATUS OF THE CONOMIC ZONE. HE INDICATES A SPIRIT OF COMPROMISE IN ORDER TO FIND SOLUTIONS TO FREE NAVIGATION, OVERFLIGHT AND OTHER LEGITIMATE AREAS OF THE SEA, AND TO THE CONCERNS EXPRESSED IN THE SECRETARY'S LETTER.

3. OTHER OPEN ISSUES MENTIONED ARE: FISHING RIGHTS OF LANDLOCKED STATES IN THE ECONOMIC ZONES OF TRANSIT COASTAL STATES; THE REGIME PROBLEM OF MARINE SCIENTIFIC RESEARCH AS CONCERNS COASTAL STATES' SOVEREIGN RIGHTS; AND THE PEACEFUL SOLUTION OF DISPUTES. CARVAJAL CLOSES BY EXPRESSING HIS DESIRE TO REACH AGREEMENT ON THE SINGLE NEGOTIATING TEXTS AS SOON AS POSSIBLE.

4. AN EMBASSY TRANSLATION OF THE LETTER FOLLOWS. COPIES OF THE ORIGINAL SPANISH TEXT WILL BE POUCHED TO ARA/BC AND TO USUN.

5. COMMENT: IN HANDING OVER THE LETTER, BERGUNO SAID THAT THE LATIN AMERICAN GROUP IN NEW YORK HAD ALMOST REACHED A CONSENSUS ON THE NEED TO BEGIN NEXT YEAR'S SESSION ON THE BASIS OF SINGLE NEGOTIATING TEXTS. ECUADOR AND MEXICO, HE SAID, HAD HELD OUT.

6. A SENIOR NAVAL OFFICER TOLD THE DATT SEPTEMBER 1 THAT CHILE AND PERU HAD CONSULTED ON THE ISSUE OF THE HIGH SEAS STATUS OF THE CONOMIC ZONE. PERU TENDED TO HOLD OUT AGAINST US VIEWS ON THE RIGHT OF INNOCENT PASSAGE OF WARSHIPS IN THE ZONE, AND MARINE SCIENTIFIC RESEARCH. CHILE HOWEVER, WAS WILLING TO COMPROMISE THE TWO ISSUES IF IT COULD CONTROL THE TYPE OF MARINE EXPLORATION AND BE SURE OF KNOWING WHAT ACTUALLY WAS CARRIED OUT.

7. LETTER FROM FONMINISTER CARVAJAL TO SECRETARY KISSINGER:

" THE GOVERNMENT OF CHILE AGREES WHOLEHEARTEDLY WITH YOUR ASSESSMENT THAT THE 3RD UN CONFERENCE ON THE LAW OF THE SEA, IN DESIRING TO ESTABLISH A NEW ORDER IN THE OCEANS-- WHICH IS JUST, EQUITABLE, AND UNIVERSALLY ACCEPTED--HAS TURNED INTO ONE OF THE MOST IMPORTANT, TRANSCENDENTAL AND AMBITIOUS NEGOTIATIONS IN THE MODERN HISTORY OF MAN.

" THE GOC IS PREPARED TO CONFRONT THE ABOVE MENTIONED CHALLENGE, JUST AS THE GOVERNMENT OF THE UNITED STATES IS. IT HAS AMPLY SHOWN (THAT IT DESIRES) TO CONTINUE THE CONVERSATIONS
CONFIDENTIAL

CONFIDENTIAL

PAGE 03 SANTIA 08619 022234Z

AND NEGOTIATIONS NECESSARY TO REACH THE CONCLUSION OF A SINGLE, GLOBAL AGREEMENT WHICH WILL REGULATE THE NEW LAW OF THE SEA. IN THAT VEIN, THE GOC HAS INSTRUCTED ITS DELEGATION TO THE CONFERENCE TO PROCEED WITHIN A SPIRIT OF COMPROMISE AND WITH THE NECESSARY FLEXIBILITY.

"MY GOVERNMENT IS LIKEWISE AWARE THAT DELAY IN CONCERTING A UNIVERSAL AND COMPREHENSIVE AGREEMENT ON THE NEW LAW OF THE SEA COULD GIVE RISE TO THE PROLIFERATION OF UNILATERAL ACTIONS WHICH

DO NOT HELP TO MAINTAIN HARMONY IN THE LOS CONFERENCE NEGOTIATIONS AND WOULD CERTAINLY TEND TO CREATE CHAOS IN THE OCEANS, TO THE DETRIMENT OF THE LEGITIMATE RIGHTS OF STATES AND ALL OF HUMANITY.

" IT IS TRU THAT SUBSTANTIAL PROGRESS HAS BEEN MADE IN THE LOS NEGOTIATIONS. HOWEVER, IMPORTANT AND COMPLEX POINTS REMAIN WHICH SHOULD BE DISCUSSED AND RESOLVED WITHIN A SPIRIT OF GOOD WILL, AND -- TO THE EXTENT POSSIBLE -- DURING THE COURSE OF THE PRESENT PERIOD OF MEETINGS. IN THE INTEREST OF BREVITY, I REFER IN DETAIL ONLY TO THE THEME MENTIONED IN YOUR LETTER AS THE 'STATUS OF THE HIGH SEAS IN THE EXCLUSIVE ECONOMIC ZONE.'

" THE GOVERNMENT OF CHILE HAS A VERY CLEAR AND DEFINITIVE STAND ON THIS PROBLEM, WHICH THE CHAIRMAN OF THE CHILEAN DELEGATION HAS PRESENTED TO THE LOS CONFERENCE, THAT IS: THE EXCLUSIVE ECONOMIC ZONE IS NOT HIGH SEAS, NOR IS IT TERRITORIAL WATERS; IT IS AN INTERMEDIATE ZONE, SUI GENERIS, WHOSE CHARACTERIZATION HAS BEEN MOLDED THROUGHOUT THE YEARS EVER SINCE CHILE PROCLAIMED, FOR THE FIRST TIME IN 1947, THE THESIS OF THE 200 MARINE MILES. THIS CHARACTERIZATION IS WELL REFLECTED IN THE PERTINENT PART OF THE SINGLE REVISED TEXT. THE GOVERNMENT OF CHILE IS CONVINCED THAT THE KEY TO THE INTERNATIONAL SOLUTION ON THE NEW LOS IS IMBEDDED IN THE EXCLUSIVE ECONOMIC ZONE, AND WITHOUT IT THERE WOULD BE NO ACCEPTABLE INTERNATIONAL AGREEMENT. NOTWITHSTANDING THE ABOVE, THE GOVERNMENT OF CHILE WILL ALWAYS BE PREPARED TO SUPPORT THE NECESSARY SOLUTIONS FOR FREE NAVIGATION, OVERFLIGHT AND OTHER LEGITIMATE USES OF THE SEA, IN ACCORDANCE WITH INTERNATIONAL

LAW, AND TO FACILITATE SOLUTIONS WHICH WILL PROTECT THE NATIONAL INTEREST (AND WHICH) CAN COVER THE LEGITIMATE AND EXPLAINABLE CONCERNS EXPRESSED IN YOUR LETTER.

" THERE ALSO EXIST OTHER IMPORTANT POINTS PRESENTLY UNDER NEGOTIATIONS WHICH MERIT ALL THE ATTENTION AND CONCERN OF THE GOVERNMENT OF CHILE. THESE ARE: EVENTUAL FISHING RIGHTS WHICH THE LANDLOCKED STATES WILL HAVE IN THE EXCLUSIVE ECONOMIC ZONES
CONFIDENTIAL

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PAGE 04 SANTIA 08619 022234Z

OF THE COASTAL STATES (WHILE) OF TRANSIT; THE REGIME PROBLEM OF MARINE SCIENTIFIC RESEARCH AS CONCERNS THE SOVEREIGN OR JURISDICTIONAL

RIGHTS OF THE COASTAL STATES; AND LASTLY THE DELICATE PROBLEM OF THE PEACEFUL SOLUTION OF CONTROVERSIES. IN THIS RESPECT, THE EXERCISE OF THE SOVEREIGN RIGHTS OF THE COASTAL STATE IN THE EXCLUSIVE ECONOMIC ZONE SHOULD BE ADEQUATELY SAFEGUARDED AT ALL TIMES.

" IN ALL THESE MATTERS, THE GOVERNMENT OF CHILE HAS A CLEAR POSITION AND THE CHILEAN DELEGATION HAS CONTRIBUTED IN SIGNIFICANT MEASURE BY PROPOSING COMPROMISE SOLUTIONS WHICH SULLY PROTECT THE DIVERSE INTERESTS AT PLAY. THE CHILEAN DELEGATES HAVE, LIKEWISE, ACTED IN CLOSE CONTACT WITH THE REPRESENTATIVES OF YOUR COUNTRY.

" FINALLY, THE GOVERNMENT OF CHILE VIEWS WITH CONCERN AND ANXIETY THE NEXT STEP WHICH NECESSARILY MUST BE TAKEN TO FURTHER

THE WORKDS AND DEBATES OF THE LOS CONFERENCE ON THE ROAD TO ULTIMATE
SUCCESS; THAT IS, THE FORMALIZATION OR OFFICIALIZATION OF THE
SINGLE REVISED TEXTS, IN ORDER TO CONVERT THEM INTO AN ORGANIC
AND INTEGRATED AGREEMENT ON A TREATY OF THE SEA. IN THE OPINION
OF THE GOVERNMENT OF CHILE, THIS STEP SHOULD BE TAKEN AS SOON AS
POSSIBLE."
POPPER

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